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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,495	05/10/2001	Yosuke Hosoya	09792909-5030	4893

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EXAMINER

WEINER, LAURA S

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/852,495

Applicant(s)

HOSOYA, YOSUKE

Examiner

Laura S Weiner

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5 and 7-9 is/are rejected.
- 7) ☒ Claim(s) 1 and 6 is/are objected to.
- 8) ☒ Claim(s) 10-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5-20-03 have been fully considered but they are not persuasive. Claims 2-5, 7-9 remain rejected under 35 U.S.C. 102(e) as being anticipated by Biensan et al. (6,071,645). Applicant argues that Biensan is directed to lithium-nickel alloys and not lithium -cobalt alloys but Biensan et al. teaches in column 1, lines 35-65, an electrode comprising $\text{Li}_x\text{MyAmDzOt}$ where x can equal 1; M can be cobalt or nickel, A is magnesium of calcium and D is selected from groups 4b to 5a of the periodic table. Biensan et al. teaches in Example 7, that y can be 0.90, A can be Mg while m is 0.05 and z can be 0.05. Biensan et al. teaches in Table 1, column 5, that D can be Al, Mn, Fe or Cr. Therefore, Biensan et al. teaches $\text{LiCo}_{0.90}(\text{Al,Mn,Fe,Cr})_{0.05}\text{Mg}_{0.05}\text{O}_2$.

Specification

2. The amendment filed May 20, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: There is no support for "where M is ...and 5B group transition metal elements.

Applicant is required to cancel the new matter in the reply to this Office Action.

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Claim Objections

3. Claims 1-9 are objected to because of the following informalities: Claim 1 should have $y \leq 0.05$ and $z \leq 0.05$. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. Claims 2-5, 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Biensan et al. (6,071,645).

Biensan et al. teaches in column 2, line 65 to column 3, line 20, a lithium cell comprising a negative electrode comprising lithium metal, lithium alloys or carbons such as graphite, vitreous carbon, coke; a positive electrode and an electrolyte. Biensan et al. teaches in Example 8, that the electrolyte was a mixture of PC/EC/DMC. Biensan et al. teaches an electrode comprising $\text{Li}_x\text{MyAmDzOt}$ where x can equal 1; M can be cobalt or nickel, A is magnesium or calcium and D is selected from groups 4b to 5a of the periodic table. Biensan et al. teaches in Example 7, that y can be 0.90, A can be Mg while m is 0.05 and z can be 0.05. Biensan et al. teaches in Table 1, column 5, that D can be Al, Mn, Fe or Cr. Therefore, Biensan et al. teaches $\text{LiCo}_{0.90}(\text{Al,Mn,Fe,Cr})_{0.05}\text{Mg}_{0.05}\text{O}_2$.

Allowable Subject Matter

5. Claims 10-20 are allowed.

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6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

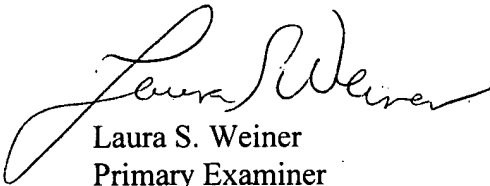
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Weiner whose telephone number is (703) 308-4396. The examiner works a flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan, can be reached at (703) 308-2383. The fax phone number for non-after finals is 703-872-9310 and the fax phone number for after-finals is 703-872-9311.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in cursive script, reading "Laura S. Weiner". The signature is written in dark ink and is positioned above the printed name and title.

Laura S. Weiner
Primary Examiner
Art Unit 1745
July 9, 2003